

**RECEIVED  
CENTRAL FAX CENTER****JAN 10 2011**

Docket No. F-8975

Ser. No. 10/566,086

**REMARKS )**

Reconsideration of the present application is respectfully requested.

Claims 13-18 and 20-29 are now pending and under consideration. Claims 13, 18, and 21 are amended herein. Claims 1-12 and 19 were previously canceled.

In this paper, the Applicants address the issues raised in the Office Action, and respectfully request reconsideration of the application based on same. It is submitted the rejections are overcome by amendment and/or the following discussion. Accordingly, it is believed that the claims are in condition of allowance.

Claims 13, 18, and 21 are amended herein to address the rejection of these claims under 35 U.S.C. § 112 paragraph 2. Claim 13 is amended to indicate that the water content of the blend is 30% to 90 wt. %. Support can be found in the specification, for example, at page 4. Claims 15, 16, 17, 25, 26, and 27 are amended to insure consistency of language with the claims from which they depend.

Accordingly the rejection under the second paragraph of section 112 is believed to be overcome.

Claims 13-18 and 20-29 are rejected under 35 U.S.C. § 103 (a) as unpatentable over Domingues et al., WO 93/01724 ("Domingues") in view of

Docket No. F-8975

Ser. No. 10/566,086

Schou et al., EP 0152 943 ("Schou"). The Applicants respectfully submit that the rejection is overcome.

Domingues teaches processes intended to limit carbon dioxide production though the selected yeast strain, and in fact in its claim 4, indicates that carbon dioxide production is halted when the dough is refrigerated. According to Domingues, there is no substantial fermentation that takes place prior to refrigeration, apparently due to the attempts in Domingues to retard fermentation by manipulating the yeast starter solutions, such as, for example employing very cold water in the starter solutions, and by employing yeast strains that are specially adapted to limit carbon dioxide production. This is consistent with Domingues' teaching that carbon dioxide production is substantially halted at refrigeration temperatures. From the above, it is apparent that to the person of ordinary skill in the art, at the time the present invention was made, would consider Domingues as teaching a method where fermentation is substantially halted in when the dough is stored in a refrigerator. This teaches away from the invention presently claimed. As indicated in claim 13 of the present application, when the pre-dough blend is chilled at temperatures of 0-2 °C, fermentation continues, though the rate of fermentation decreases as the temperature of the pre-dough blend decreases. In other words, in the present invention, cooling temperatures diminish fermentation from what it would be at

Docket No. F-8975

Ser. No. 10/566,086

warmer temperatures, while in Domingues, yeast selection and yeast treatment have an absolute effect on halting fermentation. Further, the present invention indicates that fermentation occurs at temperatures in the range of 4 to 8 °C (see claim 15). This aspect is at odds with Domingues, where fermentation is substantially halted.

Also, whereas Domingues seems to suggest maintaining the dough in an environment having temperatures close to the present claimed chilling temperatures, that technique is never employed in Domingues. In fact, in all disclosed instances, the dough is maintained at elevated temperatures in the range of 30-40 °C for a substantial period of time after the dough is prepared. Thus, the elements of Domingues that are alleged by the Examiner as adversely affecting the patentability of the present invention *are never actually practiced*. This would lead a person of ordinary skill in the art to determine that the procedures taught by Domingues that lead to the substantial halting of fermentation are, in actuality, not at all practical.

As understood by the Applicants, Schou is cited in combination with Domingues for its teachings relating to grain processing. Notably, all bread products disclosed in Schou are made *immediately* after formation of dough that contains grains processed according to Schou's teachings. Thus, Schou is not consistent with the claimed subject matter that concerns pre dough concentrates

RECEIVED  
CENTRAL FAX CENTER

→ USPTO

011/012

JAN 10 2011

Docket No. F-8975

Ser. No. 10/566,086

stored for a period of time before use. Moreover, it can be said that Schou is completely at odds with the teachings of Domingues, since Domingues teaches a final dough product intended for storage. Nothing in Schou informs the skilled artisan why a thermally modified ground product should be used in making a pre dough concentrate. Accordingly, the skilled artisan, at the time the present invention was made, would find Schou to be an irrelevant teaching and would not combine same with the teachings of Domingues.

Accordingly, it is respectfully submitted that the section 103 rejection of claims 13-18 and 20-29 is overcome.

**NO FEE DUE**

No fee is believed due. If there is any fee due the USPTO is hereby authorized to charge such fee to Deposit Account No. 10-1250.

RECEIVED  
CENTRAL FAX CENTER

JAN 10 2011

Docket No. F-8975

Ser. No. 10/566,086

In light of the foregoing, the application is now believed to be in proper  
form for allowance of all claims and notice to that effect is earnestly solicited.

Respectfully submitted,

JORDAN AND HAMBURG LLP

By Frank J. Jordan

Frank J. Jordan  
Reg. No. 20,456  
Attorney for Applicants

Jordan and Hamburg LLP  
122 East 42nd Street  
New York, New York 10168  
(212) 986-2340

FJJ/RJD/cj